

OCT 19 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

DANA LYNN ROSE,

Plaintiff - Appellant,

v.

RAY W. PATERSON; et al.,

Defendants - Appellees.

No. 04-36033

D.C. No. CV-04-00490-EJL

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted October 11, 2005^{**}

Before: T.G. NELSON, TALLMAN, and BEA, Circuit Judges.

Dana Lynn Rose, an Idaho state prisoner, appeals pro se the district court's order dismissing, pursuant to 28 U.S.C. §§ 1915(e) and 1915A, his 42 U.S.C. § 1983 action alleging that the court reporter at his criminal trial and subsequent

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

hearings falsified the transcripts of the proceedings. We have jurisdiction pursuant to 28 U.S.C. § 1291. After de novo review, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), we affirm.

A prisoner's civil rights claim for damages attributable to an allegedly unconstitutional conviction or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid does not accrue until his sentence or fact of imprisonment has been invalidated. *See Heck v. Humphrey*, 512 U.S. 477, 483-87 (1994). Because the assessment of damage, if any, for an inaccurate transcript would be measured by its effect on Rose's ability to challenge his criminal conviction on appeal, we conclude that this claim is precluded by *Heck*. *See Butterfield v. Bail*, 120 F.3d 1023, 1025 (9th Cir.1997).

Rose's remaining contentions lack merit.

AFFIRMED.